

**STATEMENT**

**OF**

**THOMAS L. LECLAIRE**

**DIRECTOR, OFFICE OF TRIBAL JUSTICE**

**BEFORE THE**

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

**CONCERNING**

**INDIAN COUNTRY BUDGET FOR FISCAL YEAR 2000**

**PRESENTED ON**

**FEBRUARY 24, 1999**

# **TESTIMONY OF THOMAS L. LECLAIRE**

**Director, Office of Tribal Justice**

**U.S. Department of Justice**

**Before the Senate Indian Affairs Committee**

**February 24, 1999**

Mr. Chairman and Members of the Committee, good morning. I am Thomas L. LeClaire, Director of the Office of Tribal Justice, Department of Justice. Thank you for inviting us to testify concerning our Fiscal Year 2000 budget for Indian country.

## **I. Introduction**

Let me begin by emphasizing the fundamental principles that guide our work with Indian tribes. Congress and the Executive Branch acknowledge the importance of working with Indian tribes within the framework of government-to-government relations when tribal self-government, tribal land and natural resources, treaty rights, or other tribal rights are at issue. The principle of government-to-government relations with Indian tribes has its roots in the historical relations between the United States and Indian tribes. President Clinton recently affirmed that:

Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In numerous treaties, our Nation guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory.

Executive Order No. 13084 (Consultation and Coordination with Indian Tribal Governments); 63 Fed. Reg. 27655 (1998). our basic responsibility to preserve public safety for residents of Indian communities derives from the unique trust relationship between the United States and Indian tribes, as well as from specific statutes, such as the Indian Major Crimes Act and the Indian Country Crimes Act that establish federal jurisdiction for serious crimes, such as homicides, rapes, and assaults resulting in serious bodily injury.

As governments, Indian tribes have the authority to maintain law and order, ensure public

safety, and administer justice in Indian country. Consistent with our -trust responsibility, the United States Attorneys prosecute felony crimes under the Indian Major Crimes Act and the Indian Country Crimes Act. Tribal law enforcement agencies assist the Federal Bureau of Investigation ("FBI") and the Bureau of Indian Affairs ("BIA") to respond to and investigate felony crimes; serve as first responders to Indian country crimes; and prosecute misdemeanor Indian crimes. An effective tribal law enforcement system is an essential adjunct to effective Federal law enforcement in Indian country.

Under Public Law 280, some states were delegated criminal jurisdiction over Indians in Indian country, and in those states, Indian tribes retain inherent authority over misdemeanor crimes by Indian offenders and often serve as the first responders to Indian country crime.

## **II. Violent Crime Among American Indians**

Historically, Indian tribes had social systems and governing institutions to maintain harmony and balance in their communities but decades of poverty have disrupted the harmony and balance of Indian communities. Today, violent crime exacts a severe toll among American Indians and Alaska Natives.'

Throughout most of the Nation, increased law enforcement resources have enhanced efforts to fight crime and violent and juvenile crimes rates have dropped. In contrast, in many Native American communities, violent and juvenile crime rates are rising while -tribal and BIA law enforcement agencies are underfunded. Tribal and, BIA law enforcement agencies have insufficient staffing among uniformed police, criminal investigators, and detention staff and lack

---

<sup>1</sup> As used herein, the term "American Indians".. includes American Indians and Alaska Natives.

---

law enforcement, judicial, and detention facilities as well as basic communications and intelligence gathering technology. Although advanced technology is becoming increasingly available

to state, local, and federal jurisdictions, many tribal and BIA law enforcement agencies lack even rudimentary crime reporting hardware and software.

The 2.3 million American Indians and Alaska Natives in the United States represent just under one percent of the population, but a February 1999 nationwide Department of Justice, Bureau of Justice' Statistics (BJS) survey finds that American Indians are victimized by violent-crime at a rate more than twice that of the general population.

Violence against American Indian women is particularly severe.<sup>2</sup> American Indians suffer 7 rapes or sexual assaults per 1,000 compared to 3 per 1,000 among Blacks, 2 per 1,000 among whites, and 1 per 1,000 among Asians. Child abuse and neglect are also serious problems among American Indians. The National Child Indian Abuse and Neglect Data System of the Department of Health and Human Services reports that, from 1992 to 1995, American Indians and Asians were the only groups to experience increases in child abuse and neglect cases involving children under age 15<sup>3</sup>, and the increase among American Indians was 3 times that among Asians. In 1995, the rate of substantiated child abuse and neglect cases among American Indian children was the highest of any group.

Alcohol use is strongly associated with crime among American Indians. In 55% of violent crimes against American Indians, the victims report that the offender was under the influence of alcohol, drugs, or both. In addition, the 1996 arrest rate for alcohol related offenses (driving under the influence, liquor violations, etc.) among American Indians and Alaska Natives

---

<sup>2</sup> The BJS report details violence among victims age 12 and over.

---

was more than double that of the general population.

In addition, we should emphasize that the BJS statistics are derived from American Indian households throughout the Nation, in urban, rural, reservation and off-reservation settings. Reports

from the FBI, BIA, and tribal law-enforcement agencies indicate that the violent crime problems on many Indian reservations are even worse than these overall national rates.

Testimony by tribal leaders regarding higher rates of homicide and gang violence corroborates information gathered by the FBI, BIA, U.S. Attorneys, and tribal police. Of the 6002 Indian country cases opened by the FBI between 1994-97, 83% were either violent crimes or involved child physical or sexual abuse. The homicide rates for some large western Indian reservations, like the Navajo Reservation, compare to the most violent jurisdictions in the country. Tribal leaders are concerned that the lack of adequate tribal law enforcement resources feeds a perception by juveniles in Indian country that they can commit crimes with

impunity. Violent crime by juvenile offenders and Indian youth gangs is on the rise in many Indian communities. The number of Indian youth in our Bureau of Prison s (BOP) custody has increased by 50% since 1994. Given the unique nature of Federal jurisdiction and the rise in juvenile crime in Indian country, 680- of the 270 youth in the BOP custody were American Indian, as of February, 20 1999.

Demographics may contribute to the growing problem of juvenile delinquency and violence in Indian country. The median age of American Indians is 24.2 years compared with 32.9 years for other Americans. On many reservations, roughly half of the population is under 18 years of age. Against this background, we must redouble our-efforts to provide appropriate juvenile prevention programs to fight the rise in juvenile crime in Indian communities

---

<sup>3</sup>Rates were calculated on the number of children age 14 or younger because they account for at least 80% of the victims of child abuse and neglect.

### **III. The-Indian Country Law Enforcement Improvement Initiative**

Recognizing the severe problem of violent crime among American Indians, on August 25, 1997,

President Clinton directed the Secretary of the Interior and the Attorney General to work with tribal governments to analyze law enforcement problems on Indian lands and suggest ways for improving public safety and criminal justice in Indian country. Beyond the increasing crime rates, the President-cited the lack of permanent law enforcement officers, investigators, and detention. facilities as evidence of the critical importance of addressing this problem immediately.

In response, the Secretary and the Attorney General formed an Executive Committee for Indian Country Law Enforcement Improvements with tribal leaders and representatives from the Interior and Justice Departments. At the request of the Executive Committee, U.S. Attorneys in districts with Indian tribes led an extensive series of tribal consultations on Indian country law enforcement in the fall of 1997. Consultations revealed a disturbing discrepancy between public safety in Indian country and the rest of the United States.

The Executive Committee found that to effectively fight crime in Indian country and improve public safety, the United States must work with Indian tribes to ensure that there is a full spectrum of Federal and tribal law enforcement resources. That includes BIA and tribal uniformed police, criminal investigators, tribal courts, FBI - agents, U-. S. Attorney personnel, support-staff, victim-witness coordinators, juvenile justice programs, detention facilities, law enforcement equipment, and training.

Uniformed police play an important role in crime fighting because they are the first on the scene. A well-staffed uniformed police force can deal with juvenile offenders swiftly and effectively, deterring them from more serious crime. BIA and Tribal criminal investigators also play a critical role in the .criminal justice system. They are often best situated to gather information about criminal activity and assist in solving cases that threaten community well-being.

Tribal courts are also crucial to maintaining law and order in Indian communities. When tribes have a range of sanctions and crime suppression, prevention, and intervention programs, tribal criminal justice systems can reduce the -volume of serious offenders who must be dealt with in the

federal system.

The range of sanctions available to tribes should include detention for serious violent offenders, drug courts and other alternative sentencing consistent with tribal traditions for lesser offenders. Tribal anti-crime efforts should also include Boys Girls Clubs and other juvenile prevention programs.

After giving serious consideration to these factors and the information gathered through consultations with tribal leaders, the Attorney General and the Secretary of the Interior approved the report of the Executive Committee and recommended to the President that Justice and Interior Departments undertake an on-going effort to improve law enforcement in Indian country. - The President approved those recommendations, and the Administration obtained funding for the-first year-of the Indian Country Law.-Enforcement Improvement Initiative in Fiscal Year 1999 and has sought continuing funding for Fiscal Year 2000.

#### **A. Fiscal Year 1999 Funding**

For Fiscal Year 1999, Congress appropriated approximately \$89,000,000 to the Justice Department to improve law enforcement in Indian country, including:

- COPS -- \$35,000,000 in COPS funding for Indian country that will cover the costs of salary and benefits for additional COPS officers as well as training and equipment for both new and existing officers to promote community policing tailored to the-needs of Indian communities.
- Detention -- \$34,000,000 for the construction of detention facilities to incarcerate offenders punished under tribal law. The Office of Justice Programs will administer this program through the Corrections Program Office.
- Tribal Youth Program -- \$10,000,000 for grants to Indian tribes to fund comprehensive tribal delinquency prevention, control, and juvenile justice system improvement for tribal youth. Funds will be available to tribes through the office of Juvenile Justice and Delinquency Prevention Programs to support programs to reduce, control, and prevent crime both by and against tribal youth; for intervention for court-involved youth, improvement of criminal justice

systems, and juvenile alcohol and substance abuse programs.-

- Tribal Courts-- \$5,000,000 for grants to Indian tribes for the development, enhancement, and the operation of tribal courts. The Bureau of Justice Assistance will administer this program to assist tribal courts through technical assistance and will award grants to tribal courts for development and enhancement projects. The Bureau will also promote funding for intertribal courts to maximize the impact of limited program resources.
- FBI -- \$4,600,000 for 30 additional FBI agents and 20 support staff for areas of Indian country where the need is most pronounced. Allocations to 11 of the FBI's field offices and Training Division have been planned, in consultation with the BIA, and job descriptions are now being finalized.

Under the Federal Indian Self-Determination Policy, as we assist tribal governments under these grant programs, we will work to ensure that our programs have the flexibility necessary to accommodate tribal traditions and meet the unique circumstances of Indian country. We expect that applications for Justice Department Fiscal Year 1999 grant programs will be sent to tribes in April.

To complement our efforts, Congress appropriated \$20 million in additional funding for Fiscal Year 1999 Department of Interior Bureau of Indian Affairs for criminal investigators, uniformed police, law enforcement services, dispatchers, and equipment. The Justice and Interior Departments are coordinating these efforts to ensure that they are complementary, and we are collaborating on our training efforts to ensure that law enforcement officers in Indian country receive appropriate training.

## **B. Fiscal Year-2000 Budget Request**

Given the severity of the violent crime problem in Indian communities, Justice and Interior Department efforts to improve Indian country law enforcement must be active and ongoing. For FY 2000, the Justice Department is seeking \$124,208,000 for the Indian Country Law Enforcement Improvement Initiative. BIA is seeking \$40 million for the Initiative for Fiscal Year 2000.

The Justice Department funds will be dedicated as follows:

- COPS -- \$45,000,000 for COPS grants to Indian tribes for additional law enforcement officers, 'equipment, and training. (This represents a \$10,000,000 increase above the amount appropriated for Fiscal Year 1999).
  - Detention --.\$34,000,000 for the construction of detention facilities in Indian country.
  - Tribal Youth Program -- \$20,000,000 for grants to Indian tribes to fund comprehensive tribal delinquency prevention, control, and juvenile justice system improvement for tribal youth. (This represents a \$10,000,000 increase above the amount appropriated for Fiscal Year 1999).
  - Drug Testing/Treatment -- \$10,000,000 for drug and alcohol testing and treatment in Indian country to address the high correlation between drug and alcohol abuse and violent crime among American Indians. (This is a new request)<sup>4</sup>
  - Tribal Courts -- \$5,000,000 to assist tribal governments in the development, enhancement, and continuing operations of tribal judicial systems.
  - Tribal Criminal Justice Systems -- \$2,000,000 to conduct a national census of tribal criminal-justice agencies and related statistical activities to improve the understanding of crime and the administration of justice among American Indians. This request is essential to improve the ability of tribal law enforcement to collect criminal justice statistics because, unlike the state and local governments, most tribal governments do not have the capacity to collect statistics under the Uniform Crime Reporting system, which the FBI uses to track crime rates. (This is a new request.)
-

4 The 'Drug Testing/Treatment program is 'essential to fight violent crime in Indian country because of the strong association between alcohol abuse and violent crime among American Indians, which is reflected in the BJS survey discussed above. At times, tribal law enforcement agencies can become overwhelmed by the sheer number of alcohol-related offenses. At a meeting with the oglala Sioux law enforcement in December 1998, tribal law enforcement officers reported that 18,000 of 22,000 arrests that they made last year were alcohol related. Many offenders can be dealt with more effectively through alternative sentencing, such as supervised residential substance abuse treatment, than through incarceration.

---

- Police Corps -- \$5,000,000 for the Police Corps Program to build the human resource infrastructure of tribal police by providing advanced educational opportunities for police in Indian country. (This is a new request.)
- United States Attorneys \$3,208,000 for 26 Assistant U.S. Attorneys and 10 support staff to augment current Federal investigative and prosecutorial-efforts in Indian country.

#### **IV. Other Justice Department Funding-Programs**

The Justice Department has also sought to make our general programs to assist state and local-law enforcement available to Indian tribes. Some examples follow:

- Violence Against Women -- The Violence Against Women office (VAWO) administers the STOP Violence Against Indian Women Grant Program to assist Indian tribes to develop and strengthen law enforcement and criminal justice system strategies to prevent and respond to domestic violence.<sup>5</sup> For Fiscal Year 2000, the Justice Department has requested \$8.2 million for the STOP Violence Against Indian Women Grant program.
- Drug Courts -- Drug courts are an innovative approach to break the cycle of drug use and crime before abusers become violent by providing intensive judicial supervision, sanctions, incentives, and treatment to help offenders stop abusing drugs, and grants to support drug court development, implementation, and improvement efforts are available to state, local, and

tribal governments, For Fiscal Year 2000, the Justice Department is seeking an overall appropriation of \$50,000,000 for the Drug Courts program.<sup>6</sup>

---

<sup>5</sup> In Fiscal Year 1998, VAWO awarded 68 grants totaling approximately \$5,900,000 to Indian tribes under the STOP program. VAWO also administers the Grants to Encourage Effective Arrest Policies Program, and in Fiscal Year 1998, 8 awards totaling approximately \$1,325,000 were made to Indian tribes. Under the Rural Domestic Violence and Child Victimization Program, 13 awards totaling approximately \$3,580,000 were made to rural Indian tribes to improve services available to women and children who are victims of domestic violence. These programs are particularly important given the severity of the problem of violence against Indian women.

<sup>6</sup> In Fiscal Year 1998, eight tribal government grantees were awarded approximately \$2,000,000 for implementation, and thirteen tribal grantees were awarded approximately \$300,000 for planning grants.

We continue to work to ensure that Indian tribes are appropriately included in general Justice Department funding programs designed to assist law enforcement agencies.

## **Conclusion**

In closing, the Justice Department recognizes that we must reduce the level of violent crime in Indian communities by ensuring adequate law enforcement resources are available to fight violent crime. The Justice Department urges the Senate Committee on Indian Affairs to support our request for the funding necessary to do so.